

MARIA LUISA GARCIA-GARCIA
48 Lassen Way, Apt. C
Watsonville, CA 95076

Telephone: (831) 707 3500
Facsimile :

Plaintiff, MARIA LUISA GARCIA-GARCIA
In Pro Se

FILED

APR 23 2018

SUSAN Y. SOONG
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Handwritten: 3
HRL

E-FILED

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SAN JOSE

CV 18 2422

ADR

MARIA LUISA GARCIA-GARCIA,

Plaintiff,

-vs.-

UNITED STATES OF AMERICA,

Defendant.

) Case No.

) **COMPLAINT FOR DAMAGES UNDER**
) **THE FEDERAL TORT CLAIMS ACT**

HRL

1 Plaintiff, MARIA LUISA GARCIA ("Garcia"), in Pro Se hereby files her
2 Complaint against the Defendant, United States of America, states as follows:

3
4 I. INTRODUCTION

5 1. This is an action against the Defendant United States of America under the
6 Federal Tort Claims Act, (28 U.S.C. §2671, et seq.) and 28 U.S.C. §1346(b)(1), for
7 negligence and professional malpractice in connection with medical care
8 provided to Plaintiff Garcia by the Clinic Salud Para La Gente located at 204
9 East Beach Street, Watsonville, California.
10

11
12 2. The claims herein are brought against the Defendant pursuant to the
13 Federal Tort Claims Act (28 U.S.C. §2671, et seq.) and 28 U.S.C. §1346(b)(1), for
14 money damages as compensation for personal injuries caused by the
15 Defendant's negligence.
16

17 3. Plaintiff Garcia has fully complied with the provisions of 28 U.S.C. § 2675 of
18 the Federal Tort Claims Act. Standard Form 95 attached as Exhibit 1.
19

20 4. This suit has been timely filed, in that Plaintiff Garcia timely served notice of
21 her claim on both the Salud Para La Gente and the United States Department of
22 Justice less than two years after the incident forming the basis of this suit.
23

24 5. Plaintiff Garcia is now filing this Complaint pursuant to 28 U.S.C. § 2401(b)
25 after receiving a denial of her claim entitled "final denial of administrative
26 claim." Administrative Tort Claim Denial Letter is attached as Exhibit 2.a
27

28 II. PARTIES, JURISDICTION AND VENUE

1 7. Plaintiff Garcia is, and at all times relevant hereto was, a resident of Santa
2 Cruz County, California.

3
4 8. Defendant United States of America, through its agency, the Salud Para
5 La Gente, operates its medical clinic at 204 East Beach Street, Watsonville,
6 County of Santa Cruz, CA

7
8 9. Defendant United States of America, operates, through its directors,
9 officers, operators, administrators, employees, agents, and staff the Salud Para
10 La Gente Clinic.

11
12 10. At all times relevant to this Complaint, the Salud Para La Gente Clinic held
13 themselves out to the Plaintiff, as a provider of high quality health care services,
14 with the expertise necessary to maintain the health and safety of patients like
15 the Plaintiff.

16
17 12. At all times relevant to this Complaint, the directors, officers, operators,
18 administrators, employees, agents, and staff were employed by and/or acting
19 on behalf of the Defendant. Furthermore, the Defendant is responsible for the
20 negligent acts of their employees and agents under respondeat superior.

21
22 13. Jurisdiction is proper under 28 U.S.C. § 1346(b)(1).

23
24 14. Venue is proper under 28 U.S.C. § 1402(b) in that all, or a substantial part of
25 the acts and omissions forming the basis of these claims occurred in the
26 Northern District of California.

27
28 III. FACTUAL ALLEGATIONS

1 15. On or about May 17, 2016 Plaintiff went to the Salud Para La Gente Clinic
2 clinice for a diabetes mellitus follow-up, and to obtain a dental clearance
3 before a doctor at Salud Para La Gente Clinic would remove some of Plaintiff's
4 teeth. Several weeks before Plaintiff had had several teeth already moved
5 removed by Salud Para La Gente Clinic.

6 16. On May 17, 2016 Plaintiff was examined by Rosemarie Sandoval, a Nurse
7 Practitioner for Salud Para La Gente. She checked Plaintiff's blood pressure and
8 sugar levels. She then asked Plaintiff to take off her shoes, presumably to check
9 for ulcers. Nurse Sandoval noticed an ulcer on that on Plaintiff's right foot pinky
10 toe . The May 17, 2016 corresponding medical report indicates "cellulitis of the
11 right toe."

12
13 17. Nurse Sandoval told Plaintiff that she had pus in that toe and that it was
14 infected. Nurse Sandoval told Plaintiff that she was going to clean it out. Plaintiff
15 disagreed that it was infected and was left somewhat confused. Nurse
16 Sandoval insisted that it was infected and simply said Plaintiff was wrong. Nurse
17 Sandoval proceeded, without Plaintiff's permission, to stick a needle into
18 Plaintiff's toe so as to get pus out; nothing came out of Plaintiff's toe, that is,
19 there was no pus. Nurse Sandoval told Plaintiff that she was very sorry. The
20 needle injection was not accompanied by any medication or medical topping,
21 etc. Nurse Sandoval was just aiming at getting pus out by use of a needle.

22
23 18. After Nurse Sandoval finished treating Plaintiff's toe, the visit was over.
24 However, Nurse Sandoval did not give Plaintiff any instructions about the post-
25 surgical toe care or use of Plaintiff's foot, that is, about any risks that Plaintiff
26 faced after she injected a plain needle into Plaintiff's allegedly infected toe.

1 19. Plaintiff walked home immediately after seeing Nurse Sandoval because
2 Plaintiff does not drive an automobile and Plaintiff went about her daily
3 activities. Two days later, approximately on May 19, 2016 blood started coming
4 out of the area of Plaintiff's toe where Nurse Sandoval injected the needle. After
5 Plaintiff had showered her toe essentially exploded with a lot of blood coming
6 out. Plaintiff was in a lot of pain. Plaintiff's entire right foot had become
7 dangerously swollen. Plaintiff immediately went to the hospital.

8
9 20. Plaintiff was in the Watsonville Community Hospital for the next 10 days.
10 On May 25, 2016 the toe that Nurse Sandoval injected was amputated by the
11 Hospital doctors.

12 21. Several days later Plaintiff went to consult with Nurse Sandoval about what
13 had happened to her toe; and because Plaintiff believed Nurse Sandoval was
14 responsible for the amputation of her toe; Plaintiff told Nurse Sandoval as much.
15 Nurse Sandoval told Plaintiff that she was sorry and would help Plaintiff since
16 Plaintiff would not be able to work anymore.

17
18 22. The May 17, 2016 medical record does not anywhere mention the
19 injection of the needle into Plaintiff aforementioned toe by Nurse Sandoval. The
20 medical record also indicates that Plaintiff was given Clindamycin HC 300 mg to
21 be taken twice a day. Plaintiff was not given any instructions from Nurse
22 Sandoval about how to prevent further harm to Plaintiff's toe. The May 17, 2016
23 medical record indicates no preventive instructions were given to Plaintiff.

24
25 22. Additionally, Plaintiff Garcia has endured significant mental and
26 emotional distress and trauma as a result of her injuries.

IV. CAUSES OF ACTION

NEGLIGENCE

23. Plaintiff Garcia realleges and reincorporates each and every allegation above as if fully set forth herein.

24. The Defendant had a duty to provide ordinary care, and to exercise that standard and degree of care and skill required of health care providers, consistent with the expertise that the Defendant presented to the community at large.

25. The Defendant breached its duty of care to Plaintiff Garcia.

26. At all times relevant to this Complaint, the Defendant had a duty to hire competent operators, administrators, employees, agents and staff in order to meet its standards of quality of care of its patients, including Plaintiff Garcia. The Defendant knew, or should have known, that the medical staff of the facility was not properly trained, and/or supervised, in a manner necessary to provide a level of care for Plaintiff Garcia that met all applicable legal requirements; that demonstrated the standard and degree of care and skill required of competent health care providers; and was consistent with the expertise that the Defendant presented to the community at large.

27. The Defendant breached its duty by negligently hiring incompetent, inexperienced and/or unqualified operators, administrators, employees, agents and staff.

1 28. The Defendant had a duty to retain only competent and adequately
2 trained operators, administrators, employees, agents and staff in order to meet
3 its standards of quality of care of its patients, including Plaintiff Garcia.
4

5 29. The Defendant breached its duty by negligently retaining incompetent,
6 inexperienced, unqualified and/or inadequately trained operators,
7 administrators, employees, agents and staff.
8

9 30. As a direct and proximate result of Defendant's negligence, Plaintiff
10 Garcia sustained serious and permanent personal injuries in and about her
11 body; she has incurred medical expenses, and other damages, and will
12 continue to incur medical expenses, and other damages in the future; she was
13 forced to endure pain, suffering and mental anguish, and will continue to
14 endure pain, suffering, and mental anguish in the future; she has suffered a loss
15 of the enjoyment of life, and will continue to suffer a loss of the enjoyment of life
16 in the future; and she has lost wages, and will continue to lose wages in the
17 future.
18
19

20 31. The acts and/or omissions set forth above would constitute a claim under
21 the law of the State of California.
22

23 32. The Defendant is liable pursuant to 28 U.S.C. 1346(b)(1).
24

25 VICARIOUS LIABILITY, RESPONDEAT SUPERIOR,

26 OSTENSIBLE AGENCY AND/OR AGENCY
27
28

1 33. Plaintiff Garcia realleges and reincorporates each and every allegation
2 above as if fully set forth herein.

3
4 34. At all times relevant to this case, the directors, officers, operators,
5 administrators, employees, agents, staff were employed by and/or acting on
6 behalf of the Defendant.

7
8 35. At all relevant times to this Complaint, the directors, officers, operators,
9 administrators, employees, agents and staff acted within their respective
10 capacities and scopes of employment for the Defendant.

11
12 36. The directors, officers, operators, administrators, employees, agents and
13 staff negligently and/or recklessly, directly and proximately caused personal
14 injury to Plaintiff Garcia, including both acts of omission and acts of commission.

15
16 37. As a direct and proximate result of Defendant's negligence, Plaintiff
17 Garcia sustained serious and permanent personal injuries in and about her
18 body; she has incurred medical expenses, and other damages, and will
19 continue to incur medical expenses, and other damages in the future; she was
20 forced to endure pain, suffering and mental anguish, and will continue to
21 endure pain, suffering, and mental anguish in the future; she has suffered a loss
22 of the enjoyment of life, and will continue to suffer a loss of the enjoyment of life
23 in the future; and she has lost wages, and will continue to lose wages in the
24 future.
25

26
27 38. The acts and/or omissions set forth above would constitute a claim under
28 the law of the State of California.

1 39. The Defendant is liable pursuant to 28 U.S.C. 1346(b)(1).

2
3 V. PRAYER FOR RELIEF

4 WHEREFORE, Plaintiff, MARIA LUISA GARCIA, does hereby pray that
5 judgment be entered in her favor and against the Defendant as follows:
6

7 1) Medical expenses, lost wages, pain and suffering, future impairment, and
8 loss of enjoyment of life totaling \$500,000.00; and
9

10 2) Costs and attorney's fees incurred in this civil action, together with such
11 further and additional relief at law or in equity that this Court may deem proper.

12 Respectfully submitted.
13

14 Dated: December 21, 2017

15 Maria Luisa Garcia-Garcia
16 MARIA LUIS GARCIA-GARCIA
17 Plaintiff, In Pro Per
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION/DECLARATION OF PLAINTIFF.

1. I am the Plaintiff in the above-captioned matter.
2. To the best of my knowledge, which is based in part on personal knowledge, the allegations contained in my said Complaint are true and correct.

Executed December 21, 2017 at Watsonville, California.

Maria Luisa Garcia G
MARIA LUISA GARCIA-GARCIA

EXHIBIT 1

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency: U.S. Dept. of Health and Human Services Claims and Employment Branch 330 C Street, SW Attn. Claims Switzer Building, Suite 2600, Washington, DC 20201 Fax 202 619 2922			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) Maria Luisa Garcia, 48 Lassen Way, Apt. C, Watsonville, CA 95076		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 08/25/1962	5. MARITAL STATUS Widow	6. DATE AND DAY OF ACCIDENT May 17, 2016	7. TIME (A.M. OR P.M.) around 2:00 p.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) Please see and incorporate attachment.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) N/A					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. My right foot Pinky toe was amputated.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Rosemarie Sandoval		204 East Beach Street, Watsonville, CA 95076			
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE n/a	12b. PERSONAL INJURY 50,000	12c. WRONGFUL DEATH n/a	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) 50,000		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) Maria Luisa Garcia		13b. Phone number of person signing form 8317073500		14. DATE OF SIGNATURE 03/20/2017	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)			

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input checked="" type="checkbox"/> No	
16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	17. If deductible, state amount.
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.) N/A	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input checked="" type="checkbox"/> No	
INSTRUCTIONS	
<p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - Insert the word NONE where applicable.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.</p> </div> <div style="width: 48%;"> <p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p> </div> </div>	
PRIVACY ACT NOTICE	
<p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552(a)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. <i>Authority:</i> The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.</p>	<p>B. <i>Principal Purpose:</i> The information requested is to be used in evaluating claims.</p> <p>C. <i>Routine Use:</i> See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. <i>Effect of Failure to Respond:</i> Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".</p>
PAPERWORK REDUCTION ACT NOTICE	
<p>This notice is <u>solely</u> for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Tort Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.</p>	

Re: Patient : Maria Luisa Garcia
Date of Injury : May 17, 2016
Date of Birth : August 25, 1962

ATTACHMENT TO FORM CLAIM

Question 8:

FACTUAL BASIS FOR THE CLAIM:

On or about May 17, 2016 I went to Salud Para La Gente in Watsonville, CA. for a diabetes mellitus follow-up and to obtain a dental clearance before my doctor remove more of my teeth. Several weeks before I had had several teeth already moved removed.

On that day I was examined by Rosemarie Sandoval, a Nurse Practitioner for Salud Para La Gente. She checked my blood pressure and sugar levels. She then asked me to take off my shoes presumably to check for ulcers. She noticed that on my right foot pinky toe I had an ulcer. The May 17, 2016 corresponding medical report indicates "cellulitis of the right toe."

Ms. Sandoval told me that I had pus in that toe and that it was infected. She told me that she was going to clean it out. I disagreed that it was infected and was left somewhat confused. She insisted that it was infected and simply said I was wrong. She proceeded, without my permission, to stick a needle into my toe so as to get pus out. Nothing came out of my toe, that is, there was no pus. She told me she was very sorry. The needle injection was not accompanied by any medication or medical topping, etc. Ms. Sandoval was just aiming at getting pus out by use of a needle.

After Ms. Sandoval finished with my toe my visit was over. Ms. Sandoval did not give me any instructions about the post-surgical toe care or use of my foot, that is, about any risks that I faced after she injected a plain needle into my infected toe.

I walked home immediately after seeing Ms. Sandoval because I do not drive and went about my daily activities. Two days later, approximately on May 19, 2016 blood started coming out of the area of my toe where she injected the needle. After I had showered my toe essentially exploded with a lot of blood coming out. I was in a lot of pain. My entire right foot had become dangerously swollen. I immediately went to the hospital.

I was in the Watsonville Community Hospital for the next 10 days. On May 25, 2016 the toe that Ms. Sandoval injected was amputated by the Hospital doctors.

Several days later I went to consult with Ms. Sandoval about what had happened to my toe; I believed she was responsible for the amputation of my toe; I told her as much. Ms. Sandoval told me that she was sorry and would help me since I would not be able to work anymore.

The May 17, 2016 medical record does not anywhere mention the injection of the needle into my aforementioned toe by Ms. Sandoval. It also indicates that I was given Clindamycin HC 300 mg to be taken twice a day. I was not given any instructions from the Sandoval about how to prevent further harm to my toe. The May 17, 2016 medical record indicates no preventive instructions were given to me.

EXHIBIT 2



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE GENERAL COUNSEL
General Law Division, CELB

330 C Street, S.W.
Switzer Building, Suite 2600
Washington, D.C. 20201

AUG 4 2017

CERTIFIED - RETURN
RECEIPT REQUESTED

Ms. Maria Luisa Garcia
48 Lassen Way, Apt. C
Watsonville, California 95076

RE: Administrative tort claim of: Maria Luisa Garcia
2017-0261

Dear Ms. Garcia:

On March 21, 2017, you filed an administrative tort claim under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 1346(b), 2401(b), 2671-2680, alleging, *inter alia*, that on May 17, 2016, an employee at Salud Para la Gente, in Watsonville, California, negligently injected a needle into your right little pinky toe, resulting in the amputation of the toe on May 25, 2016.

The FTCA authorizes the settlement of any claim of money damages against the United States for, *inter alia*, injury or death caused by the negligent, or wrongful, act or omission of any employee of the Federal Government, while acting within the scope of employment. Under the FTCA, said act or omission must be such that the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred (28 U.S.C. § 2672).

This letter constitutes the notice of final determination on this administrative tort claim as required by 28 U.S.C. §§ 2401(b), 2675(a). The administrative tort claim is denied. The evidence fails to establish that the alleged injury was due to the negligent or wrongful act or omission of a federal employee acting within the scope of employment.

If you are dissatisfied with this decision, you may:

1. file a written request with the agency for reconsideration of the final determination denying the claims within six (6) months from the date of mailing of this determination (28 C.F.R. § 14.9); or
2. file suit against the United States in the appropriate federal district court within six (6) months from the date of mailing of this determination (28 U.S.C. § 2401(b)).

Maria Luisa Garcia
2017-0261
Page 2

In the event you request reconsideration, the agency will review the claim within six (6) months from the date the request is received. If the claim is denied, you may file suit within six (6) months from the date of mailing of the final determination.

Sincerely,

William A. Biglow / *rd*

William A. Biglow
Deputy Associate General Counsel
Claims and Employment Law Branch

SC-100**Plaintiff's Claim and ORDER
to Go to Small Claims Court****Notice to the person being sued:**

- You are the defendant if your name is listed in ② on page 2 of this form. The person suing you is the plaintiff, listed in ① on page 2.
- You and the plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Order to Go to Court**The people in ① and ② must go to court:** (Clerk fills out section below.)

Trial Date	Date	Time	Department	Name and address of court, if different from above
1.	JUL 2 0 2017	12:30pm	17	
2.				
3.				

Date **MAY 16 2017** by **ALEX CALVO**, Deputy **ERIKA MEDINA**

Instructions for the person suing:

- You are the plaintiff. The person you are suing is the defendant.
- Before you fill out this form, read form SC-100-INFO, *Information for the Plaintiff*, to know your rights. Get SC-100-INFO at any courthouse or county law library, or go to www.courts.ca.gov/smallclaims/forms.
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make one copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each defendant a court-stamped copy of all five pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Clerk stamps date here when form is filed.

FILED
MAY 16 2017ALEX CALVO, CLERK
BY ERIKA MEDINA
DEPUTY, SANTA CRUZ COUNTY

Fill in court name and street address:

Superior Court of California, County of
Santa Cruz

1 Second Street

Watsonville, 95076

Watsonville Courthouse

Court fills in case number when form is filed.

Case Number:

17 CV 01299Case Name: Garcia v. Salud Para La
Gente, et al

Plaintiff (list names): Maria Luisa Garcia

Case Number:

1 The plaintiff (the person, business, or public entity that is suing) is:

Name: Maria Luisa Garcia Phone: 831 707 3500
 Street address: 48 Lassen Way, Apt. C Watsonville California 95076
Street City State Zip
 Mailing address (if different): _____
Street City State Zip

If more than one plaintiff, list next plaintiff here:

Name: _____ Phone: _____
 Street address: _____
Street City State Zip
 Mailing address (if different): _____
Street City State Zip

- ☐ Check here if more than two plaintiffs and attach form SC-100A.
☐ Check here if either plaintiff listed above is doing business under a fictitious name. If so, attach form SC-103.
☐ Check here if any plaintiff is a "licensee" or "deferred deposit originator" (payday lender) under Financial Code sections 23000 et seq.

2 The defendant (the person, business, or public entity being sued) is:

Name: Rosemarie Sandoval Phone: (831) 728-0222
 Street address: 204 East Beach Street Watsonville California 95076
Street City State Zip
 Mailing address (if different): _____
Street City State Zip

If the defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process here:

Name: Salud Para La Gente Job title, if known: 831 728 0222
 Address: 204 East Beach Street Watsonville CA 95076
Street City State Zip

- ☐ Check here if your case is against more than one defendant, and attach form SC-100A.
☐ Check here if any defendant is on active military duty, and write his or her name here: _____

3 The plaintiff claims the defendant owes \$ 10000.00 (Explain below):

- a. Why does the defendant owe the plaintiff money? Medical malpractice, negligence, breach of contract, negligence infliction of emotional distress, failure to diagnose, failure to obtain consent when defendant treated and mistreated my right foot causing me to get part of my right foot amputated.

When did this happen? (Date): May 17, 206

- b. If no specific date, give the time period: Date started: _____ Through: _____
 c. How did you calculate the money owed to you? (Do not include court costs or fees for service.)
I lost part of my right foot so I seek the maximum a court can give me.

- ☐ Check here if you need more space. Attach one sheet of paper or form MC-031 and write "SC-100, Item 3" at the top.



Plaintiff (list names): Maria Luisa Garcia

Case Number:

- 4 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. If your claim is for possession of property, you must ask the defendant to give you the property. Have you done this?

☒ Yes ☐ No If no, explain why not:

- 5 Why are you filing your claim at this courthouse?

This courthouse covers the area (check the one that applies):

- a. ☒ (1) Where the defendant lives or does business. (4) Where a contract (written or spoken) was made, signed, performed, or broken by the defendant or where the defendant lived or did business when the defendant made the contract.
 (2) Where the plaintiff's property was damaged.
 (3) Where the plaintiff was injured.
- b. ☐ Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim, is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)
- c. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civ Code, § 1812.10.)
- d. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civ Code, § 2984.4.)
- e. ☐ Other (specify):

- 6 List the zip code of the place checked in 5 above (if you know): 95076

- 7 Is your claim about an attorney-client fee dispute? ☐ Yes ☒ No

If yes, and if you have had arbitration, fill out form SC-101, attach it to this form, and check here: ☐

- 8 Are you suing a public entity? ☐ Yes ☒ No

If yes, you must file a written claim with the entity first. ☐ A claim was filed on (date):

If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

- 9 Have you filed more than 12 other small claims within the last 12 months in California?

☐ Yes ☒ No If yes, the filing fee for this case will be higher.

- 10 Is your claim for more than \$2,500? ☒ Yes ☐ No

If yes, I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.

- 11 I understand that by filing a claim in small claims court, I have no right to appeal this claim.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: 05/15/2017 Maria Luisa Garcia
 Plaintiff types or prints name here

Maria Luisa Garcia Garcia
 Plaintiff signs here

Date: _____
 Second plaintiff types or prints name here

 Second plaintiff signs here



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the trial. Contact the clerk's office for form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civ. Code, § 54.8.)

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: Maria Luisa Garcia FIRM NAME: STREET ADDRESS: 48 Lassen Way, Apartment C CITY: Watsonville STATE: CA ZIP CODE: 95076 TELEPHONE NO.: 831-707-3500 FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (Name): Plaintiff in pro per	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> MAY 24 2017 ALEX CALVO, CLERK BY ERIKA MEDINA DEPUTY, SANTA CRUZ COUNTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Cruz STREET ADDRESS: 1 Second Street MAILING ADDRESS: 1 Second Street CITY AND ZIP CODE: Watsonville, 95076 BRANCH NAME: Watsonville Courthouse	
Plaintiff/Petitioner: Maria Luisa Garcia Defendant/Respondent: Rosemarie Sandoval and Salud Para la Gente	
REQUEST FOR DISMISSAL	
CASE NUMBER: 17CV01299	
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.	
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)	

1. TO THE CLERK: Please **dismiss** this action as follows:

- a. (1) ☐ With prejudice (2) ☒ Without prejudice
- b. (1) ☒ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed by (name):
- (4) ☐ Cross-complaint filed by (name):
- (5) ☐ Entire action of all parties and all causes of action
- (6) ☐ Other (specify):*

on (date):

on (date):

2. (Complete in all cases except family law cases.)

The court ☒ did ☐ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).

Date: May 23, 2017

Maria Luisa Garcia

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Maria Luisa Garcia

(SIGNATURE)

Attorney or party without attorney for:

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

** If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

▶

(SIGNATURE)

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date): **MAY 24 2017**
5. ☐ Dismissal entered on (date): as to only (name):
6. ☐ Dismissal **not entered** as requested for the following reasons (specify):

7. a. ☒ Attorney or party without attorney notified on (date): **MAY 24 2017**
- b. ☐ Attorney or party without attorney not notified. Filing party failed to provide ☐ a copy to be conformed ☐ means to return conformed copy

Date:

MAY 24 2017

Clerk, by

Deputy

Page 1 of 2

CIV-110

Plaintiff/Petitioner: Maria Luisa Garcia
 Defendant/Respondent: Rosemarie Sandoval and Salud Para la Gente

CASE NUMBER:
 17CV01299

COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for (name): May 18, 2017
2. The person named in item 1 is (check one below):
 - a. ☒ not recovering anything of value by this action.
 - b. ☐ recovering less than \$10,000 in value by this action.
 - c. ☐ recovering \$10,000 or more in value by this action. (If item 2c is checked, item 3 must be completed.)
3. ☐ All court fees and court costs that were waived in this action have been paid to the court (check one): Yes No

~~I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.~~

Date: May 23 2017

Maria Luisa Garcia

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☒ PARTY MAKING DECLARATION)

Maria Luisa Garcia

(SIGNATURE)